

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

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Louis Merriweather,  
Petitioner

vs

Case No. 1:02cv369  
(Spiegel, Sr.J.; Hogan, M.J.)

Tim Brunsman,<sup>1</sup>  
Respondent

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**ORDER**

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On February 14, 2005, this habeas corpus action brought pro se pursuant to 28 U.S.C. § 2254 was closed based on a Court order granting petitioner's motion to voluntarily dismiss the petition without prejudice. (Docs. 37, 38). Instead of filing a new petition, petitioner filed a motion to reopen the case on September 16, 2005. (Doc. 39). This matter is now before the Court for ruling on that motion entitled "Petition For Renewal Of Writ Of Habeas Corpus Pursuant To 28 U.S.C. § 2254" (Doc. 39), as well as petitioner's motion to advance the cause (Doc. 40) which was also filed on September 16, 2005.

Petitioner's motion to reopen the case (Doc. 39) is GRANTED. In reopening the case, the Court assumes that petitioner is reasserting the grounds for relief alleged in the original petition filed on May 12, 2002 (Doc. 2), as amended on April 28, 2004 (*see* Docs. 17, 23), to which respondent has responded (*see* Docs. 9, 24, 27). To the extent petitioner seeks to raise new claims in his renewal application, he must file an

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<sup>1</sup>In the petition, petitioner properly named as respondent James Erwin, who was then Warden of Chillicothe Correctional Institution (CCI), where petitioner is incarcerated. However, as petitioner notes in a recent pleading (*see* Doc. 40), James Erwin was replaced by Tim Brunsman as CCI's Warden. Because Tim Brunsman is the individual who currently has custody of petitioner, the caption of this case is hereby changed to reflect the proper party respondent. *See* Rule 2, Rules Governing Section 2254 Cases in the United States District Courts, 28 U.S.C. foll. § 2254.

amended petition within twenty (20) days of the date of this Order.

In his motion to advance the cause (Doc. 40), petitioner essentially requests an accelerated ruling on his petition, which he claims is now ripe for ruling. The Court disagrees. The case is only now being reopened after having been closed based on petitioner's own motion for voluntary dismissal. There may be additional issues or claims which the parties may seek to raise in light of state court proceedings that only recently concluded. Petitioner's "Motion To Advance The Cause" (Doc. 40) is DENIED.

IT IS SO ORDERED.

Date:

9/28/05  
cbc

  
Timothy S. Hogan  
United States Magistrate Judge

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